

MONTEREY COUNTY ZONING ADMINISTRATOR

Meeting: August 9, 2007 @ 1:35 PM	Agenda Item No.: 2
Project Description: Use Permit to allow the re-drilling of an old well site for an exploratory well in search of commercial quantities of oil and natural gas.	
Project Location: The drilling rig with accessory structures will cover an existing 150 feet by 300 feet drilling pad site located within Section 2, Township 24 South, Range 10 East (Assessor's Parcel Number 424-081-082-000), approximately 300 feet North of Jolon Road and approximately 1.5 miles West of the intersection of Highway 101 and Jolon Road.	APN: 424-081-082-000
Planning File Number: PLN070173; Porter Estate Company	Name: Porter Estate Company Bradley Ranch Inc., Property Owner Venoco, Inc. Applicant
Plan Area: South County	Flagged and staked: No, only photo simulations provided.
Zoning Designation: : Portion of subject property designated "Permanent Grazing" ("PG/40")	
CEQA Action: Categorically Exempt per Section 15304 (e)	
Department: RMA - Planning Department	

RECOMMENDATION:

Staff recommends approval of the Use Permit to allow the drilling of an exploratory oil and natural gas well in search of commercial quantities of oil and natural gas based on Findings and Evidence (**Exhibit A**) and subject to proposed conditions (**Exhibit B**).

PROJECT OVERVIEW: The proposed project will allow for portable drilling equipment to be located at an area approximately 150 feet by 300 feet, at an existing surface location on a relatively level, treeless portion of the 29.83 acre Assessor's Parcel, a portion of a larger 304.77 acre legal lot of record. The project site is on that portion of the parcel designated Permanent Grazing ("PG/40"), which allows for the exploration and removal of oil and gas with a Use Permit. A previous Use Permit for exploratory oil and gas drilling was approved in November of 2004--Zoning Administrator Resolution 040283, RMA-Planning Department file no. PLN040283. The current application by Venoco, Inc. involves exploratory re-drilling at the same location. The temporary exploratory well is compatible with the present use of the land as grazing pasture land. If it is discovered that there are commercial quantities of oil and/or natural gas at the site, a subsequent Use Permit will be required to convert the temporary well to a full production well meeting the California Division of Oil and Gas guidelines for oil/gas drilling (Condition no. 3).

Key conditions: A second biological assessment at the site since 2004 was conducted by Robert A. Booher Consulting in June of 2007. The consultant states that natural gas production activities are currently conducted in the general project area and potential impacts to foraging raptors are considered less than significant. Also, no potential burrows for use by the American badger or the San Joaquin kit fox were identified. However, the potential exists that any of these species could begin inhabiting the project study area and recommends pre-construction surveys to avoid impacts, exclusion zones established if found, and if unable to successfully ensure protection of the species, the United States Fish and Wildlife Service and the California Department of Fish and Game be contacted for further guidance. (Condition no. 6)

A condition of approval requires that the site be restored to its natural state should there not be found any commercial quantities of oil and gas that would entail a more permanent oil/gas drilling use at the site. (Condition no. 4)

Potential fire hazards associated with an oil/gas drilling operation has been reviewed by the South County Department of Forestry Fire District for the previous and current application. The Fire District required a 10,000 gallon water tank within 500 to 1,000 feet from the exploratory drilling site as a safety measure for the previous Use Permit, but has not applied said condition for the current application. Nonetheless, standard procedure for oil drilling operations is to locate a portable water tank truck (“Banker Tank”) holding several thousand gallons of water at the site that meets the previous Fire District requirement. A hold final by the Fire District is placed on the drilling operation for final inspection prior to commencement of drilling operations. (Condition no. 10)

Although the applicant predicts the exploratory well operation will take no more than 6 to 8 months, the permit shall expire in one year with a request to extend the permit at the specific site for a period not to exceed an additional six (6) months. Any request for an extension will be contingent upon no violation of grading, zoning, land use policies or local and state regulations (Condition no. 5).

The Environmental Health Division requires compliance with Title 19 and Title 22 of the Government Code regarding the handling and disposal of hazardous waste at the site. (Condition nos. 8 and 9)

OTHER AGENCY INVOLVEMENT:

- ✓ South County Department of Forestry Fire Protection District
- ✓ Public Works Department
- ✓ Environmental Health Division
- ✓ Water Resources Agency

The above checked agencies and departments have reviewed this project. In addition to RMA-Planning Department conditions, the Environmental Health Division and the California Department of Forestry – South County Fire District have placed conditions of approval on the project.

The project was not referred to the Bradley/Parkfield Land Use Advisory Committee (LUAC) because they already recommended approval of the project on September 15, 2004 by a vote of 4-0 with 2 absent, and the project is exempt from CEQA per Section 15304 (e) . Should there be a discovery of oil and/or natural gas in commercial quantities, the project will be referred to the LUAC concurrent with the application for a Use Permit for a permanent production well.

Notes: This project is appealable to the Planning Commission.

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 Report reviewed by Bob Schubert

CC: Zoning Administrator; County Counsel; Health Department; Public Works; Water Resources Agency; South County CDF Fire District; Jeff Main; Property Owner; Venoco, Inc., applicant; File

Attachments:

Exhibit A: Recommended Findings and Evidence	Exhibit C: Applicant’s Description of the Proposed Project with Photo Simulations
Exhibit B: Recommended Conditions of Approval	Exhibit D: Site Topography Map, Site Plans and elevations with Data Tables of recent past drilling

EXHIBIT A

RECOMMENDED FINDINGS AND EVIDENCE

1. FINDING: PLAN, POLICY AND ZONING CONSISTENCY FINDING: The subject Use Permit (**Porter Estate; PLN070173**) for an exploratory well in search of commercial quantities of oil and natural gas, as conditioned, is consistent with the General Plan, including Goal 2, Objective 2.1, Policy 2.1.1., and Objective 2.3, Policy 2.3.2., to identify the compatibility of mineral extraction activities with current land uses, and to have the applicant furnish the County with all information needed to make an environmental assessment of the proposed mineral extraction operation. The South County Area Plan identifies the very productive oil fields located on both sides of Highway 101, south of the town San Ardo, and although this project is not located in the San Ardo fields, it is in close proximity to them. Zoning Ordinance, Title 21, allows for the exploration and removal of oil and gas with a Use Permit on property designated “Permanent Grazing” (“PG/40”). The subject property is in compliance with all rules and regulations pertaining to the use of the property; no violations exist on the property and all zoning abatement costs, if any, have been paid.

EVIDENCE:

- a) Planning and Building Inspection staff have reviewed the project as contained in the application and accompanying materials for conformity with the Zoning Ordinance, Title 21, and have determined the project is consistent with the South County Area Plan, which identifies the general area for mineral extraction, Figure 9, “South County Planning Area Land use Plan,” and shows the proposed exploratory oil site just south of the existing San Ardo oil fields.
- b) The use, which is an *exploratory oil well*, is consistent with Section 21.34.050 Y, “Permanent Grazing” (PG/40) zoning district, which allows this use upon the granting of a conditional use permit.
- c) The proposed 45,000 square foot area would contain equipment for a portable drilling rig capable of drilling until a target depth is reached. Surface casing will be set, cemented, and blowout prevention equipment installed at the wellhead and tested.
- d) All down hole well operations will be regulated by the State of California, Department of Conservation, Division of Oil, Gas, and Geothermal Resources to protect ground water. Well casing is designed to protect fresh water zones.
- e) Staff reviewed Monterey County Planning and Building Inspection Department records and verified that no violations exist on subject property. Oil and gas rights were granted to Bradley Minerals Inc. who has a joint venture with Trio Petroleum Inc., Venoco, Inc. and others to operate the exploratory well. The joint venture agreement with Venoco, Inc. was executed in October 25, 2005.

2. FINDING: SITE SUITABILITY - The site is suitable for the use proposed.

EVIDENCE:

- a) As provided as evidence for Finding 3 below, the project has been reviewed for site suitability by various local and State agencies. For the year 2004 Use Permit for exploratory oil drilling at the site by Trio Petroleum, Inc., the South County California Department of Forestry Fire District required the applicant provide a 10,000-gallon water supply solely for fire protection with approved connections.

For the current application, the Fire District is holding the final for fire approval prior to granting occupancy of the company representative in a travel trailer that will be at the site 24 hours a day, 7 days a week, and before the commencement of the drilling operation. The applicant will be providing a fire tank, or a large “Baker Tank” filled with several thousand gallons of water situated on or very near the location.

- b) Venoco, Inc. is subject to the guidelines, supervision, and approval of the State of California Division of Oil and Gas, such as meeting a requirement to truck out of the area any oil and wastewater for disposal at an authorized property or re-injected into the producing formation. The County’s Environmental Health Division will be overseeing the regulations for hazardous waste control at the site pursuant to Titles 19 and 22 of the California Code of Regulations and the California Health and Safety Code.
- c) Technical reports have been provided by Robert A. Booher Consulting who conducted a Biological Assessment in June of 2007. (Biological Assessment, Venoco, Inc. Bradley Minerals 1-2 Exploratory Oil and Natural Gas Well Project, Monterey County). This follows a General Biological Assessment conducted by Sierra Delta Corporation (SDC), consulting biologists on July 28, 2004, and a San Joaquin kit fox and burrowing owl survey for the Porter Estate well site on October 19, 2004. All reports found the following:
Two species identified within the NDDDB have a potential to occur on the Project Site, the San Joaquin kit fox and the burrowing owl. During site biological surveys, neither species were encountered or observed, nor were signs of their presence encountered or observed on the project site. Based on the site surveys, neither species is expected to occur on or near the Project Site. No significant impact to either species is expected.

Nonetheless, both reports recommend pre-construction surveys be conducted based on the *potential* for these species to be found near the site. The Booher report requires the pre-construction report be prepared within 14 days of site disturbance activities. (Condition no. 6).

Included in the Biological Assessments, are surveys of the site vegetation. This includes one distinct vegetation community, annual grassland, which is mainly composed of slender wild oats, brome grasses, filaree, and telegraph weed. Rodents and many game and non-game wildlife are in the area. The temporary exploratory well is located in the middle of the annual grass rangeland; there are no physical or environmental constraints such as environmentally sensitive habitats or similar areas that render the site not suitable for the use proposed.

- d) An erosion control plan has been prepared that provides operation procedures and best management practices to prevent sediment and other pollutants from entering local drainage systems and water bodies, and protect all exposed earth surfaces from erosive forces. Daily inspections as part of the regular operations shall ensure that the specified procedures and best management practices are in place and satisfactorily maintained.
- e) Access has been arranged with the surface owner to utilize an existing dirt road over grazing land.
- f) While the project has the potential to be visible from Highway 101, a Scenic Corridor, staff considers the short term (1 year), exploratory well use proposed will not be an aesthetic issue unless commercial quantities of oil and natural gas are found. In the latter case, the applicant will apply to the County of Monterey for a

subsequent use permit, which will require mitigation for any environmental impacts, including aesthetic or scenic impacts.

g) Employees living temporarily on site will be in a self-contained recreational vehicle.

3. **HEALTH AND SAFETY FINDING:** The establishment, maintenance or operation of the Use/project applied for will not under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

EVIDENCE:

The project was reviewed by Public Works, Water Resources, Environmental Health, South Monterey County California Department of Forestry Fire District, and the California Division of Oil and Gas. The respective departments/agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the general area. The applicant has agreed to these conditions as evidenced by the application and accompanying materials found in file no. PLN070173 and the conditions found in Exhibit B of this report.

4. **FINDING: NO VIOLATIONS** – The subject property is in compliance with all rules and regulations pertaining to zoning uses and any other applicable provisions of the County’s zoning ordinance. No violations exist on the property. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: Staff reviewed Monterey County records and is not aware of any violations existing on subject property.

5. **ENVIRONMENTAL IMPACT FINDING:** The proposed project will not have a significant environmental impact.

EVIDENCE:

- a) Section 15304 (e) of the State CEQA Guidelines categorically exempt the proposed development from environmental review. No adverse environmental impacts were identified during staff review of the development application.
- b) Technical reports have been provided by Robert A. Booher Consulting who conducted a Biological Assessment in June of 2007 and Sierra Delta Corporation (SDC), consulting biologist, who conducted a Kit Fox Survey for the Porter Estate well site on February 8, 2002. Based on the site surveys, both biological assessments found the no signs of kit fox or burrowing owl presence on the project site. Due to the project’s nature and location with respect to habitat features, it is considered that the well drilling will have no impact on the kit fox, burrowing owl, or their habitat. As stated as evidence under Finding 2 above, the temporary exploratory well is located in the middle of annual grass rangeland; there are no physical or environmental constraints such as environmentally sensitive habitats or similar areas that render the site not suitable for the use proposed.
- c) A condition of approval requires the applicant restore the temporary drilling site to its predevelopment condition as non-native grassland. (Condition no. 4)

6. **FINDING: APPEALABILITY** – The decision on this project is appealable to the Planning Commission.

EVIDENCE: Section 21.80.040 of the Monterey County Zoning Ordinance, Title 21.

**Planning and Building Inspection Department
Condition Compliance & Mitigation Monitoring and/or
Reporting Plan**

Project Name: Porter Estate Co.

File No: PLN070173

APNs: 424-081-082-000

Approval by: Zoning Administrator

Date: August 9, 2007

**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
1.		<p>PD001 - SPECIFIC USES ONLY</p> <p>The subject Use Permit consists of the drilling of one exploratory oil and/or natural gas well with a portable drilling rig for one year, capable of drilling to a depth of 11,000 feet. The portion of the property to be used for locating the portable drilling rig is in Section 2, Township 24 South, Range 10 East (Assessor's Parcel Number 424-081-082) approximately 300 feet north of Jolon Road and approximately 1.5 miles west of the intersection of Highway 101 and Jolon road in the South County Area.</p> <p>This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities.</p> <p>(RMA-Planning Department)</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless other-wise stated	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
RESOURCE MANAGEMENT AGENCY – PLANNING DEPARTMENT CONDITIONS OF APPROVAL						
2.		PD002 - NOTICE-PERMIT APPROVAL The applicant shall record a notice that states: "A permit (Resolution 070173) was approved by the Zoning Administrator for Assessor's Parcel Number 424-081-082 on August 9, 2007. The permit was granted subject to 10 conditions of approval that run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. (RMA-Planning Department)	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to Issuance of grading and building permits or start of use.	
3.		PDSP001 – NON-STANDARD CONDITION A subsequent use permit will be required to convert the temporary well to a full production well meeting the California Division of Oil and Gas guidelines for oil/gas drilling. (RMA-Planning Department)	Quantity of oil and/or gas found at well site shall be furnished to the RMA-Planning Department. A new use permit shall be applied for if commercial quantities of oil and/or gas are found.	Owner/ Applicant	Prior to expiration of temporary Use Permit.	
4.		PDSP002 – NON-STANDARD CONDITION A condition of approval requires that the site shall be restored to its predevelopment condition as a non-native grassland should there not be found any commercial quantities of oil and gas that would entail a more permanent oil/gas drilling use at the site. (RMA-Planning Department)	Quantity of oil and/or gas found at well site shall be furnished to the RMA-Planning Department. Site shall be restored prior to expiration of use permit, if no extension or subsequent use permit is applied for.	Owner/ Applicant	Prior to expiration of Use Permit or application of new Use Permit.	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
5.		<p>PDSP003 – NON-STANDARD CONDITION Although the applicant predicts the exploratory well operation will take no more than 6 to 8 months, the permit shall expire in one year from the date that construction begins, with a request to extend the permit at the specific site for a period not to exceed an additional six (6) months. Any request for an extension will be contingent upon no violation of grading, zoning, land use policies or local and state regulations. (RMA-Planning Department)</p>	Apply to the RMA- Planning Department for extension of Use Permit	Owner/ Applicant	Prior to expiration of Use Permit	
6.		<p>PDSP004 – NON-STANDARD CONDITION A pre-construction survey shall be conducted within 14 days of site disturbance activities. Pre-construction surveys will occur prior to the implementation of construction phase of the project. If evidence that foraging raptors, American badgers or San Joaquin kit foxes are inhabiting the project study area, the consulting biologist must be contacted to delineate exclusion zones, or contact the United States Fish and Wildlife Service and the California Department of Fish and Game for further guidance. (RMA-Planning Department)</p>	Submit results of pre-construction survey to the RMA - Planning Department. The RMA - Planning Department must approve results.	Owner/ Applicant	No more than 14 days prior to commencement of drilling operations.	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
7.		<p>PD010 - EROSION CONTROL PLAN AND SCHEDULE</p> <p>The approved development shall incorporate the recommendations of the Erosion Control Plan as reviewed by the Director of RMA – Planning and Director of Building Services. Operation procedures and best management practices shall prevent sediment and other pollutants from entering local drainage systems and water bodies, and protect all exposed earth surfaces from erosive forces.</p> <p>(RMA - Planning Department and RMA - Building Services Department)</p>	Daily inspections as part of the regular operations by the applicant shall ensure that the specified procedures and best management practices are in place and satisfactorily maintained. This program shall be approved by the Director of RMA - Planning and Director of RMA - Building Services.	Owner/ Applicant	Ongoing	
<p>ENVIRONMENTAL HEALTH DIVISION CONDITIONS OF APPROVAL</p>						
8.		<p>EH28 - HAZ MAT BUSINESS RESPONSE PLAN</p> <p>Comply with Title 19 of the California Code of Regulations and Chapter 6.95 of the California Health and Safety Code (Hazardous Material Registration and Business Response Plans) as approved by the Director of Environmental Health. (Environmental Health)</p>	Contact the Hazardous Materials Program of the Division of Environmental Health.	Owner/ Applicant	Continuous	
9.		<p>EH30 - HAZARDOUS WASTE CONTROL</p> <p>Comply with Title 22, Division 4.5 of the California Code of Regulations and Chapter 6.50 of the California Health and Safety Code (Hazardous Waste Control) as approved by the Director of Environmental Health. (Environmental Health)</p>	Contact the Hazardous Materials Program of the Division of Environmental Health.	Owner/ Applicant	Continuous	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
CALIFORNIA DEPARTMENT OF FORESTRY – SOUTH COUNTY FIRE PROTECTION CONDITIONS OF APPROVAL						
10.		FPSP001 Hold for fire final prior to granting occupancy (CDF – South County)	Contact Art Black of the Carmel Fire Protection Associates, consultant for the CDF- South County Fire Protection District	Owner/ Applicant	Prior to final inspection	
END OF CONDITIONS OF APPROVAL						